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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **OAKLAND DIVISION**

16 ELASTICSEARCH, INC., a Delaware
17 corporation, and ELASTICSEARCH B.V., a
18 Dutch corporation,

19 Plaintiffs,

20 v.

21 FLORAGUNN GmbH, a German corporation,

22 Defendant.

23 Case No. 4:19-cv-05553-YGR
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23 **STIPULATION AND [PROPOSED]
24 ORDER TO MODIFY CASE
25 SCHEDULE; DECLARATION OF
26 DAVID R. EBERHART**

27 **** AS AMENDED BY THE COURT ****

1 Pursuant to Civil Local Rules 6-1(b), 6-2, and 7-12, defendant floragunn GmbH
2 (“defendant”) and plaintiffs Elasticsearch, Inc. and elasticsearch B.V. (“plaintiffs”), by and
3 through their attorneys of record, stipulate and move as follows:

4 WHEREAS, on January 24, 2022, the parties conducted a Settlement Conference before
5 Magistrate Judge Sallie Kim;

6 WHEREAS, although the case did not settle at the Settlement Conference, Magistrate
7 Judge Kim proposed to the parties that they stipulate to continue the trial date and current case
8 management deadlines to enable further settlement efforts;

9 WHEREAS, Magistrate Judge Kim scheduled a further Settlement Conference for
10 February 10, 2022 (see Dkt. 229);

11 WHEREAS, pursuant to the Court’s Case Management Order, the Pretrial Conference is
12 scheduled for February 11, 2022, and trial is scheduled to commence on February 28, 2022 (Dkt.
13 86);

14 WHEREAS, pursuant to the Court’s Standing Order Re: Pretrial Instructions In Civil
15 Cases, the parties must file their Joint Pretrial Conference Statement and motions *in limine* by
16 January 28, 2022, file oppositions to motions *in limine* by February 2, 2022, and deliver to the
17 Court their Trial Readiness Binder by February 4, 2022; additionally, pursuant to Federal Rule of
18 Civil Procedure 72(a), plaintiffs must file by February 1, 2022, their motion for relief from the
19 January 18, 2022 non-dispositive pretrial order of Magistrate Judge Alex Tse (Dkt. 226);

20 WHEREAS, the parties have been diligently preparing for the pretrial conference and
21 trial, including complying with their meet and confer and document exchange obligations under
22 the Court’s Standing Order Re: Pretrial Instructions In Civil Cases and, absent an order from the
23 Court altering the schedule, expect that they will comply with each of the deadlines set by the
24 Court’s Standing Order Re: Pretrial Instructions In Civil Cases;

25 WHEREAS, to focus on settlement discussions and conserve resources, the parties
26 respectfully request that the Court (1) vacate the trial date, the Pretrial Conference and the
27 associated deadlines set forth in the Court’s Standing Order Re: Pretrial Instructions In Civil
28 Cases, and plaintiffs’ deadline to file any motion for relief from the January 18, 2022 non-

1 dispositive pretrial order of the Court (Dkt. 226) and (2) set a status conference to discuss new
2 deadlines and a new trial date should settlement efforts fail;

3 NOW, THEREFORE, the parties submit that good cause exists to alter the schedule and,
4 through their respective counsel, hereby stipulate to and respectfully request that the Court (a)
5 vacate the trial date, the Pretrial Conference, and the associated deadlines set forth in the Court's
6 Standing Order Re: Pretrial Instructions In Civil Cases including the deadlines for filing motions
7 *in limine* and oppositions thereto, for filing the Joint Pretrial Conference Statement, for
8 submitting the Joint Trial Readiness Binder and its contents; (b) continue the date by which
9 plaintiffs must file any motion for relief from the January 18, 2022 non-dispositive pretrial order
10 of the Court (Dkt. 226) to a further date to be set by the Court; and (c) set the matter for a status
11 conference on Monday, February 28, 2022 at 2:00pm.

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13 IT IS SO STIPULATED.
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2 Dated: January 26, 2022

3 DAVID R. EBERHART
4 LUANN L. SIMMONS
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DANIEL H. LEIGH
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5
6 By: /s/ David R. Eberhart
7 David R. Eberhart

8 Attorneys for plaintiffs
9 ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.

10
11 Dated: January 26, 2022

12 WUERSCH & GERING LLP
V. DAVID RIVKIN

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14 By: /s/ V. David Rivkin
V. David Rivkin

15 Attorneys for defendant
16 FLORAGUNN GmbH

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18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

19 However, the February 28, 2022 status conference shall be set for 1:00 p.m., not
20 2:00 p.m.

21 Dated: January 27, 2022

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Hon. Yvonne Gonzalez Rogers
United States District Judge